

ACT #2019- 492

1 HB46
2 196680-2
3 By Representative England
4 RFD: Economic Development and Tourism
5 First Read: 05-MAR-19
6 PFD: 02/14/2019



1
2 ENROLLED, An Act,

3 Relating to alcoholic beverages; to add Section
4 28-3A-20.3 to the Code of Alabama 1975, and to amend Section
5 28-3A-25, Code of Alabama 1975; to authorize on-premises
6 retail licensees of the Alcoholic Beverage Control Board to
7 produce, store, and sell infused products made from distilled
8 spirits for on-site consumption.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 28-3A-20.3 is added to the Code
11 of Alabama 1975, to read as follows:

12 §28-3A-20.3.

13 (a) An on-premises retail licensee may make, store,
14 and sell infusions for on-premises consumption.

15 (b) As used in this section, infusion means an
16 alcoholic beverage that is created by combining or mixing one
17 distilled spirit with nonalcoholic food products and is not
18 intended for immediate consumption. A nonalcoholic food
19 product includes the following: Spices, herbs, fruits,
20 vegetables, candy, or other substances intended for human
21 consumption, provided that no additional fermentation occurs
22 and none of the additives contain any additional alcohol.

23 (c) Any retail on-premises licensee intending to
24 produce, store, or sell infusions shall provide written
25 notification to the board of that intent.

1 (d) The container holding an infusion shall be no
2 larger than five gallons.

3 (e) A batch of infused product shall satisfy all of
4 the following:

5 (1) Be infused, stored, and consumed only on the
6 licensed premises.

7 (2) Be labeled with all of the following
8 information:

9 a. A statement that the infused product contains
10 alcohol.

11 b. A title for the recipe.

12 c. The name of the person who prepared the batch of
13 infused product.

14 d. The date the batch of infused product was
15 produced.

16 e. The expiration date of the batch of infused
17 product.

18 f. The brand and type of spirits used to prepare the
19 batch of infused product.

20 g. The amount of spirits used to prepare the batch
21 of infused product.

22 h. A detailed and comprehensive list of all
23 ingredients used to prepare the batch of infused product.

24 (3) Comply with all applicable state and federal
25 food safety regulations.

1 (4) Be disposed of within 22 days after being
2 prepared.

3 (f) A batch of infused product may not:

4 (1) Contain any added stimulant, drug, or illegal
5 substance including, but not limited to, caffeine, guarana,
6 ginseng, taurine, marijuana, or any product or beverage which
7 includes stimulants that are not naturally included in the
8 infused product or beverage including, but not limited to, an
9 energy drink.

10 (2) Be removed or transported from the licensed
11 premises.

12 (3) Be infused in, stored in, or dispensed from an
13 original package of liquor, or container bearing an alcoholic
14 beverage name brand.

15 (g) The board may adopt rules to implement this
16 section.

17 Section 2. Section 28-3A-25 of the Code of Alabama
18 1975, is amended to read as follows:

19 "§28-3A-25.

20 "(a) It shall be unlawful:

21 "(1) For any manufacturer, importer, or wholesaler,
22 or the servants, agents, or employees of the same, to sell,
23 trade, or barter in alcoholic beverages between the hours of
24 nine o'clock P.M. of any Saturday and two o'clock A.M. of the
25 following Monday.

1 "(2) For any wholesaler or the servants, agents, or
 2 employees of the wholesaler to sell alcoholic beverages, to
 3 other than wholesale or retail licensees or others within this
 4 state lawfully authorized to sell alcoholic beverages, or to
 5 sell for export.

6 "(3) For any person, licensee, or the board either
 7 directly or by the servants, agents, or employees of the same,
 8 or for any servant, agent, or employee of the same, to sell,
 9 deliver, furnish, or give away alcoholic beverages to any
 10 person under the legal drinking age, as defined in Section
 11 28-1-5, or to permit any person under the legal drinking age,
 12 as defined in Section 28-1-5, to drink, consume, or possess
 13 any alcoholic beverages on any licensee's premises.

14 "(4) For any person to consume alcoholic beverages
 15 on the premises of any state liquor store or any off-premises
 16 licensee, or to allow alcoholic beverages to be consumed on
 17 the premises of any state liquor store or any off-premises
 18 licensee, except as specifically allowed by law for the
 19 tasting of alcoholic beverages.

20 "(5) For any licensee to fail to keep for a period
 21 of at least three years, complete and truthful records
 22 covering the operation of his or her license and particularly
 23 showing the date of all purchases of alcoholic beverages, the
 24 actual price paid therefor, and the name of the vendor, or to
 25 refuse the board or any authorized employee of the board

1 access to the records or the opportunity to make copies of the
2 records when the request is made during business hours.

3 "(6) For any licensee or the servants, agents, or
4 employees of the same to refuse the board, any of its
5 authorized employees, or any duly commissioned law enforcement
6 officer the right to completely inspect the entire licensed
7 premises at any time the premises are open for business.

8 "(7) For any person to knowingly sell any alcoholic
9 beverages to any person engaged in the business of illegally
10 selling alcoholic beverages.

11 "(8) For any person to manufacture, transport, or
12 import alcoholic beverages into this state, except in
13 accordance with the reasonable rules and regulations of the
14 board. This subdivision shall not prohibit the transportation
15 of alcoholic beverages through the state or any dry county so
16 long as the beverages are not for delivery therein, if the
17 transportation is done in accordance with the reasonable rules
18 and regulations of the board.

19 "(9) For any person to fortify, adulterate,
20 contaminate, or in any manner change the character or purity
21 of alcoholic beverages from that as originally marketed by the
22 manufacturer, except that a retail licensee ~~on order from a~~
23 ~~customer~~ may mix a chaser or other ingredients necessary to
24 prepare a cocktail or mixed drink or may make infusions for
25 on-premises consumption in accordance with Section 28-3A-20.3.

1 "(10) For any person licensed to sell alcoholic
 2 beverages to offer to give any thing of value as a premium for
 3 the return of caps, stoppers, corks, stamps, or labels taken
 4 from any bottle, case, barrel, or package containing the
 5 alcoholic beverages, or to offer to give any thing of value as
 6 a premium or present to induce the purchase of the alcoholic
 7 beverages, or for any other purpose whatsoever in connection
 8 with the sale of the alcoholic beverages. This subdivision
 9 shall not apply to the return of any moneys specifically
 10 deposited for the return of the original containers to the
 11 owners of the containers.

12 "(11) For any licensee or transporter for hire,
 13 servant, agent, or employee of the same, to transport any
 14 alcoholic beverages except in the original container, and for
 15 any transporter for hire to transport any alcoholic beverages
 16 within the state, unless the transporter holds a permit issued
 17 by the board.

18 "(12) For any manufacturer, importer, or wholesaler,
 19 servant, agent, or employee of the same, to deliver any
 20 alcoholic beverages, except in vehicles bearing such
 21 information on each side of the vehicle as required by the
 22 board.

23 "(13) For any person to sell alcoholic beverages
 24 within any dry county or county where the electors have voted

1 against the sales, except in wet municipalities or as
2 authorized by Section 28-3A-18.

3 "(14) For any person, firm, corporation,
4 partnership, or association of persons as the terms are
5 defined in Section 28-3-1, including any civic center
6 authority, racing commission, fair authority, airport
7 authority, public or quasi-public board, agency, or
8 commission, any agent thereof, or otherwise, who or which has
9 not been properly licensed under the appropriate provisions of
10 this chapter to sell, offer for sale, or have in possession
11 for sale, any alcoholic beverages. Any alcoholic beverages so
12 possessed, maintained, or kept shall be contraband and subject
13 to condemnation and confiscation as provided by law.

14 "(15) For any manufacturer, distiller, producer,
15 importer, or distributor of alcoholic beverages to employ and
16 maintain any person, who is not a full-time bona fide
17 employee, as a resident sales agent, broker, or other like
18 representative, for the purpose of promoting a sale, purchase,
19 or acquisition of alcoholic beverages to or by the state or
20 the board, or for any person who is not a full-time bona fide
21 employee to act as an agent, broker, or representative of any
22 manufacturer, distributor, producer, importer, or distiller
23 for that purpose.

24 "(16) For any person to sell, give away, or
25 otherwise dispose of taxable alcoholic beverages within this

1 state on which the required taxes have not been paid as
2 required by law.

3 "(17) For any wholesaler or retailer, or the
4 servant, agent, or employee of the same, to sell, distribute,
5 deliver, or to receive or store for sale or distribution
6 within this state any alcoholic beverages unless there first
7 has been issued by the board a manufacturer's license to the
8 manufacturer of the alcoholic beverages or its designated
9 representative or an importer license to the importer of the
10 alcoholic beverages.

11 "(18) For any person under the legal drinking age,
12 as defined in Section 28-1-5, to attempt to purchase, to
13 purchase, consume, possess, or to transport any alcoholic
14 beverages within the state; provided, however, it shall not be
15 unlawful for a person under the legal drinking age, as defined
16 in Section 28-1-5, to be an employee of a wholesale licensee
17 or an off-premises retail licensee of the board to handle,
18 transport, or sell any beer or table wine if the person under
19 the legal drinking age is acting within the line and scope of
20 his or her employment while so acting. There must be an adult
21 licensee, servant, agent, or employee of the same present at
22 all times a licensed establishment is open for business.

23 "(19) For any person, except where authorized by a
24 local act or general act of local application, to buy, give
25 away, sell, or serve for consumption on or off the premises,

1 or to drink or consume any alcoholic beverages in any cafe,
2 lunchroom, restaurant, hotel dining room, or other public
3 place on Sunday after the hour of two o'clock A.M.

4 "(20) Except where authorized by a local act or
5 general act of local application, for the proprietor, keeper,
6 or operator of any cafe, lunchroom, restaurant, hotel dining
7 room, or other public place to knowingly permit any person to
8 give away, sell, or serve for consumption on or off the
9 premises, or to drink or consume any alcoholic beverages on
10 the premises of the cafe, lunchroom, restaurant, hotel dining
11 room, or other public place on Sunday after the hour of two
12 o'clock A.M.

13 "(21) For a person under the age of 21 years to
14 knowingly use or attempt to use a false, forged, deceptive, or
15 otherwise nongenuine driver's license to obtain or attempt to
16 obtain alcoholic beverages within this state.

17 "(b) (1) Any violation of subdivisions (1) through
18 (17) of subsection (a) shall be a misdemeanor punishable by a
19 fine of not less than one hundred dollars (\$100) nor more than
20 one thousand dollars (\$1,000), to which, at the discretion of
21 the court or judge trying the case, may be added imprisonment
22 in the county jail or at hard labor for the county for not
23 more than six months for the first conviction; and, on the
24 second conviction of a violation of the subdivisions, the
25 offense shall, in addition to the aforementioned fine, be

1 punishable by imprisonment or at hard labor for the county for
2 not less than three months nor more than six months to be
3 imposed by the court or judge trying the case; and, on the
4 third conviction and every subsequent conviction of a
5 violation of the subdivisions, the offense shall, in addition
6 to a fine within the limits abovenamed, be punishable by
7 imprisonment or at hard labor for the county for not less than
8 six months nor more than 12 months.

9 "(2) Any violation of any provision of subdivisions
10 (18), (19), (20), and (21) of subsection (a) shall be a
11 misdemeanor punishable by a fine of not less than fifty
12 dollars (\$50) nor more than five hundred dollars (\$500), to
13 which, at the discretion of the court or judge trying the
14 case, may be added imprisonment in the county jail or at hard
15 labor for the county for not more than three months.

16 "(c) In addition to the penalties otherwise provided
17 for a violation of subdivisions (18) and (21) of subsection
18 (a), upon conviction, including convictions in juvenile court
19 or under the Youthful Offender Act, the offender's license to
20 operate a motor vehicle in this state shall be surrendered by
21 the offender to the judge adjudicating the case for a period
22 of not less than three months nor more than six months. The
23 judge shall forward a copy of the order suspending the license
24 to the Department of Public Safety for enforcement purposes."

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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Mac McClatchey

Speaker of the House of Representatives



President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 02-APR-19.

Jeff Woodard
Clerk

Senate

28-MAY-19

Passed

APPROVED

6-10-19

TIME

12:25pm

Kay Ivey
GOVERNOR

Alabama Secretary Of State

Act Num.....: 2019-492
Bill Num....: H-46

Recv'd 06/10/19 01:55pmSL

DATE: _____	RECONSIDERED	SENATE ACTION	YEAS	NAYS
RD 1 RFD				
DATE: _____	This Bill was referred to the Standing Committee of the Senate on <u>GA</u>			
RD 1 RFD	and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) <u>C</u> w/sub <u>C</u> w/leng sub <u>C</u> by a vote of _____ nays <u>C</u> abstain <u>C</u>			
DATE: _____	this <u>1st</u> day of <u>Aug</u> <u>20</u> <u>19</u>			
RD 1 RFD	Chairperson _____			
DATE: _____	RF	RD 2	RD 3 at length	
I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB <u>46</u>				
YEAS	<u>33</u>	NAYS	<u>1</u>	
PATRICK HARRIS, Secretary				
DATE: _____	PASSED	PASSED AS AMENDED	RD 3 at length	
RD 1 RFD				
YEAS	<u>53</u>	NAYS	<u>1</u>	
And was ordered returned forthwith to the House. PATRICK HARRIS, Secretary				
DATE: _____	INDEFINITELY POSTPONED			
RD 1 RFD	YEAS	YEAS	NAYS	

Clerk _____	HOUSE ACTION	DATE: _____	RD 1 RFD
		<u>3-5</u> <u>20</u> <u>19</u>	
REPORT OF STANDING COMMITTEE			
This bill having been referred by the House to its standing committee on <u>Economic Development & Tourism</u> acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be passed w/amend(s) <u>w/sub</u> this <u>20th</u> day of <u>March</u> <u>20</u> <u>19</u>			
Chairperson _____			
DATE: _____	RF	RD 2	RD 3
I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB <u>46</u>			
YEAS	<u>83</u>	NAYS	<u>7</u>
JEFF WOODARD, Secretary			
DATE: _____	RE-REFERRED	RE-COMMITTED	Committee
DATE: _____	This bill having been referred by the House to its standing committee on _____ acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be _____		
RD 1 RFD	Chairperson _____		
DATE: _____	RF	RD 2	RD 3
I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB <u>46</u>			
YEAS	<u>83</u>	NAYS	<u>7</u>
JEFF WOODARD, Secretary			

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